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NEW YORK, TUESDAY, OCTOBER 16, 1906.

ROSEBEN SMASHES ALL TIME RECORDS, WINNING \$14,000 FOR OWNER JOHNSON

THAW MAY NOT BE TRIED ALONE, JEROME HINTS

District Attorney Tells the Court that Somebody Besides Young Millionaire May Be Indicted for Killing Architect.

Harry Thaw may not stand trial alone for the murder of Stanford White.

In arguing that he should not be prevented from conducting John Doe proceedings in the Thaw case, District Attorney Jerome today told Recorder Goff there is a prospect that some one else in addition to Harry Thaw may be indicted for the murder of Stanford White on the roof of Madison Square Garden.

"Your Honor," said Mr. Jerome, with great earnestness, "we should not be bound in our efforts to conduct our inquiry further. Any Grand Jury has a right to draw a superseding indictment. Who knows but what we may draw an indictment coupling another name with that of Harry Thaw in this case? Under the law any person who aids, counsels, urges, advises or abets in the commission of a murder is jointly liable with the murderer, whether that person be actually present at the time of its commission or not."

"It does not appear yet where Harry Thaw got the revolver with which he shot Stanford White. It does not appear whether words were spoken to him which led him to shoot White. These are things in which I have a right to inquire with the object of securing the indictment of an accessory to the crime."

Mr. Jerome used this language in making an hour's reply to the renewed motion of John B. Gleason, of counsel for Thaw, for a writ of prohibition restraining the District Attorney's office from summoning the witnesses for the defense before him and before the Grand Jury to answer questions. Mr. Gleason insisted that Mr. Jerome had issued John Doe subpoenas for the purpose of assisting the prosecution at the trial and to learn what the case of the defense would be. He insisted that as the June Grand Jury had already indicted Thaw, the October Grand Jury or any other grand jury could no longer have a proper and legal and legitimate interest in hearing the stories of the witnesses.

The writ of prohibition. It has been over two months since Mr. Gleason first asked for his writ of prohibition. The motion was made before Justice MacLean in the Supreme Court. That Justice passed the matter along to Recorder Goff, saying that the case in its present status, being before General Sessions, no phase of it should be primarily considered in the Supreme Court. Accordingly, Mr. Gleason offered before the Recorder to-day practically the same argument that he had originally offered to Justice MacLean. He pressed the issue so sharply that he drew from Mr. Jerome the significant declaration that more indictments in the White murder are in contemplation.

"It would be wrong, I admit," said Mr. Jerome, "if I were engaged in trying to prepare the case of the prosecution by using the summoning power of my office to extort statements from the witnesses of the other side. I declare that such is not my object at all. It is properly within my power to summon any witnesses for the purpose of ascertaining whether another than the man

APPEALS COURT FAVORS 80-CENT RATE FOR GAS

Holds that Company May Be Restrained from Charging a Dollar.

INJUNCTION IS UPHOLD.

Justice Giegerich Sustained in His Decision that State Could Fix Price.

A decision handed down by the Court of Appeals at Albany to-day establishes the constitutionality of the law making 80 cents per thousand feet the price of gas in this State insofar as the Court of Appeals has power to establish. The decision of the court is that the Supreme Court of New York County has the right to issue injunctions restraining the Consolidated Gas Company from charging more than 80 cents per thousand feet.

The contention of the Gas Trust that it has a right to charge a dollar a thousand feet, although the Legislature has established the maximum at 80 cents, is entirely overthrown by the Court of Appeals. It means that any consumer may go into the Supreme Court and secure an injunction prohibiting his gas company from charging him more than 80 cents for each thousand feet of gas consumed, and that the gas company has not the right of appeal.

Court Wouldn't Refuse It. Nor will any Supreme Court Justice in the light of the decision of the highest court of the State venture to refuse a writ of injunction in a proceeding to restrain the gas company from charging the old rate.

Of course, the matter of 80-cent or 90-cent gas has not been finally settled by this decision handed down to-day. The proceeding in the United States Court, which is to be appealed by agreement, to the Supreme Court of the United States, is being dragged along and until the highest court in the nation finally passes upon the constitutionality of the law the Gas Trust will undoubtedly insist that it has the right to charge \$1 per thousand feet and deposit the excess to be returned to its patrons if the case should go against it.

So far as the local situation is concerned the decision establishes the 80-cent rate. The matter went to the Court of Appeals on an appeal taken by the Consolidated Gas Company from an injunction granted by Justice Giegerich restraining the company from charging a patron more than 80 cents for 1,000 feet of gas. The question was argued at length by the wisest lawyers in the employ of the Gas Trust, they holding in effect that the law should protect the Trust in its efforts to pay dividends upon the ocean of water in its stock.

Justice Giegerich held that the State had a right to require a gas company to supply gas at a rate that would return a reasonable dividend upon the amount actually invested in its business. Upon appeal the Appellate Division passed the matter up to the Court of Appeals, where Justice Giegerich is upheld. This is taken by lawyers as a line upon the probable outcome of the case when it gets before the Supreme Court of the United States.

LOAD OF HAY ON FIRE DRAWS A BIG CROWD.

Department Had to Be Called Out to Extinguish Blaze at Busy Street Corner.

The Fire Department was called upon to extinguish a blazing load of hay at Eighth avenue and Thirtieth street this afternoon. The fire drew a crowd as big as would have gathered to watch a skyscraper burn.

Edward Smith was driving a team, pulling twenty-four bales of hay for Horace Ingersoll & Co., No. 64 West Thirtieth street, on Eighth avenue, past the Pennsylvania Railroad's tunnel excavation, when sparks from an engine below set fire to the hay. The load was soon blazing and the driver was puzzled as to how to smother it. The burning bales were dragged from the wagon and rolled over in an effort to extinguish the fire. The street was blocked with wagons, street cars and pedestrians by the time the first engine arrived. It took but a few minutes then to end the excitement.

REAL HEARST MEN VICTIMS OF BUNCO GAME

Independent League Petitions Filed for Only Murphy Candidates.

SHUTS OUT LEAGUE MEN

Petition Names Straight Wigwam Candidates for Supreme Court and General Sessions.

The placity with which Charles F. Murphy has viewed the numerous nominations by the Independence League of Assembly, Senatorial and Judiciary by petition was explained to-day when Tammany leaders began to file with the Board of Elections Independence League petitions indorsing the Tammany candidates. In other words, the Independence League "Gilded House Clique" has indorsed practically the entire Tammany County ticket.

The Tammany leaders have been busy for days getting ready petitions under Independence League emblems, nominating their own candidates. These petitions have been signed by thousands of voters, and on every petition appears the names of Max Ihmsen, Frank Shober and Timothy Driscoll, of the Independence League.

The Independence Leaguers who think they have been nominated by their organization to oppose the Tammany Hall ticket will meet with a sad surprise tomorrow when they find their right to the emblem has been preempted in favor of the regular candidate. As The Evening World predicted several days ago, Mr. Hearst's managers have given them the "double cross." They were promised nominations to keep them quiet until the time for filing nominations should expire.

One of the first Independence League petitions to be filed was that indorsing "The" McManus, "German" leader, of the Eleventh District, for the Senate, and Owen Bohan, Tammany nominee for the Assembly in the Ninth. Florio Sullivan signed a long Independence League petition indorsing the candidate of "Cassius" Goldie. The whole bunch will be in before the deputed Independence League office-seekers wake up.

Mr. Owen McManus is authority for saying that a similar petition was filed this afternoon nominating the whole of the Judiciary ticket as nominated on the regular ticket by Tammany Hall. At the Gilded House, the headquarters of the Independence League, it was admitted that it was known such petitions were in circulation, yet the League declared the petitions would be practically null and void and could not be received by the Board of Elections without the approval of the League.

LATE RACING RESULTS AT LOUISVILLE.

Fifth—Harding 2-5, Clifton Forge 2-1 place. Revolt. Sixth—Orator 4-1, Arthur Cummer 3-5 place. Lazell.

BROWER'S DEFENSE CLOSED.

TOMS RIVER, N. J., Oct. 16.—The defense in the trial of Dr. Brower was closed this afternoon at 4:25 o'clock.

Witnesses in rebuttal for the prosecution were called.

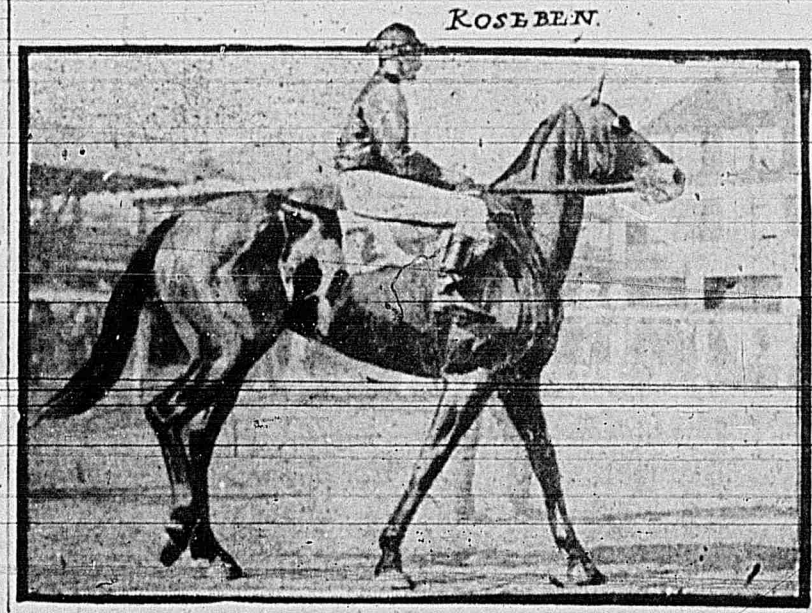
KILLED PICKING CHESTNUTS.

Joseph Handwerker, forty-one years old, of 2068 Hughes avenue, Bronx, was picking chestnuts from a tree on Riverdale avenue near Darcy lane this afternoon. He climbed out on a branch to pick a large cluster of chestnuts when it broke and he fell to the ground. He died in Fordham Hospital.

FELL THROUGH FIRE-ESCAPE OPENING.

Mary Martell, twelve years old, of No. 401 East Sixth street, fell through the opening of a fire-escape in the rear of

Sprinter Broke Record Which Had Stood for Years



SWEAR PTOMAINES CAUSED DEATH OF MRS. BROWER

Dr. Foreman, Who Attended Her, Saw No Symptoms of Strychnine Poisoning—Aged Mother on Stand.

(Special to The Evening World.) TOMS RIVER, N. J., Oct. 16.—I believe Mrs. Brower died of ptomaine poisoning. There was not a symptom during her illness which is not present in ptomaine poisoning.

So testified Dr. McLane Foreman, of Freehold, at the trial of Dr. Frank Brower, charged with the murder of his wife to-day. Dr. Foreman, who has practiced medicine for forty years, was called in to attend Mrs. Brower in her last illness. He was also present months later when the body was exhumed and an autopsy held.

"The autopsy failed to reveal any cause of death," he declared. "Had she died of arsenical poisoning the condition of the internal organs would have shown it plainly."

Dr. I. H. Hance, who is George Gould's physician at Lakewood, also answered a hypothetical question covering the case by saying:

"I believe Mrs. Brower died of ptomaine poisoning."

Dr. Foreman said that when he reached the Brower house he was met by Nurse Lippincott. She told of the convulsions of the patient and of her own suspicion that Mrs. Brower was suffering from strychnine poisoning. Yet, thus warned, Dr. Foreman de-

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Champion Sprinter Runs Seven Furlongs in 1.22, Beating Mark Made on Straightaway Track Way Back in 1890.

PLUNGER BET THOUSANDS HORSE WOULD GO UNDER 1.25.

Without Pace of Any Kind and at 1 to 80 in Betting, Speed Champion Creates Turf History—Tourenne, at 10 to 1, Repeats in Rancho del Paso Stakes.

BY FRANK W. THORP. BELMONT PARK RACE TRACK, Oct. 16.—The peerless Roseben this afternoon took all horse records into camp by running seven furlongs in 1.22. There were several remarkable things about the fifth race. There were thirteen horses carded to race with Roseben, but the gelding scared them all out excepting Beauclaire, who started for second money. There was no betting on the race. The "bookies" put up 1 to 80 on Roseben and 60 to 1 on Beauclaire.

Shaw was up on Roseben. He went to the front at the start, spurred away ahead of Beauclaire and came tearing around the turn at a record clip. In the stretch Shaw sat down and hand rode to the wire. He got every tick of speed out of Roseben. "What's the matter with Shaw?" the regulars cried. "What's he running Roseben off his feet for when the other horses are twenty lengths away?" There was a cry of astonishment from the stand when the timers hung out 1.22. The time smashed all records for the straight course, and around the turn. The best previous time was made by Bella B. at Monmouth Park in 1890 over the straight course. Haulfax held the record around the ring, the time being 1:21.4. "What's the matter with Shaw?" the regulars cried. "What's he running Roseben off his feet for when the other horses are twenty lengths away?" There was a cry of astonishment from the stand when the timers hung out 1.22. The time smashed all records for the straight course, and around the turn. 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